

**STATE OF CALIFORNIA
STATE WATER RESOURCES CONTROL BOARD**

In the Matter of the Petitions of)
THE CITY OF LOS ANGELES AND)
NORTH VALLEY COALITION OF)
CONCERNED CITIZENS)
For Review of Order No. 91-091,)
Waste Discharge Requirements for)
Browning-Ferris Industries of)
California, Inc. (Sunshine Canyon)
Sanitary Landfill), issued by the)
California Regional Water Quality)
Control Board, Los Angeles Region.)
Our File No. A-765.)

ORDER NO. WQ 92-11

BY THE BOARD:

On July 22, 1991, the California Regional Water Quality Control Board, Los Angeles Region (Regional Water Board), adopted waste discharge requirements, contained in Order No. 91-091, for the expansion of Sunshine Canyon Sanitary Landfill. Disposal operations in the existing portion of the landfill, located within the City of Los Angeles (City), ceased in September 1991. The owner and operator of the landfill, Browning-Ferris Industries of California, Inc. (BFI), proposed to expand the landfill into an area of approximately 542 acres located entirely within the County of Los Angeles (County). Order No. 91-091 authorized waste disposal in the expansion area.

Petitioners, the City and North Valley Coalition of Concerned Citizens (North Valley Coalition)¹, seek review of

¹ Petitioner, North Valley Coalition, is a public benefit corporation consisting of local residents and persons working in the general area.

Order No. 91-091 before the State Water Resources Control Board (State Water Board or Board). In addition, petitioners request a hearing. Petitioners ask the Board to reverse the decision of the Regional Water Board or, alternatively, to direct the Regional Water Board to prepare a supplemental environmental impact report (EIR) and, upon its completion, to reconsider Order No. 91-091.

I. REQUEST FOR A HEARING

Petitioners have requested a hearing to present evidence which they allege they were not afforded the opportunity to present to the Regional Water Board or which the Regional Water Board wrongfully disregarded. Petitioners do not explain, as required by our regulations, the nature of this evidence or the facts which they would prove, if afforded the opportunity for a second hearing on this matter. See 23 C.C.R. Sec. 2050(b). Given petitioners' failure to demonstrate the need for an additional hearing and the voluminous record in this matter, we have determined that petitioners' request should be denied.

II. BACKGROUND

Sunshine Canyon Sanitary Landfill has been in operation since 1956. It is located in Sunshine Canyon in the Santa Susana Mountains at the northern end of the San Fernando Valley. Sunshine Canyon is comprised of a complex of canyons which have been incised into stratified sedimentary rocks of marine origin, known as the Towsley Formation, and variously tilted, faulted, and fractured.

Since 1978 the Sunshine Canyon landfill has been owned and operated by BFI. BFI owns 1,036 acres in Sunshine Canyon, part of which is within the City's jurisdiction and part of which is within the County's. The existing 164-acre Class III landfill², located entirely within the City limits, is unlined and occupies several tributary canyons near the mouth of Sunshine Canyon. This facility ceased operations in September 1991, and is currently undergoing closure.

Monitoring wells completed in the alluvium downgradient of the existing landfill have detected statistically significant, high concentrations of chloride, which is considered an indicator of leachate. In 1990 BFI installed a ground water extraction trench downgradient of the closed landfill in order to intercept ground water flowing in the alluvium between the landfill and the mouth of Sunshine Canyon. This extraction system has been in operation since February, 1991. BFI has argued that the high chloride levels may be a relic of brine disposal from past oil field explorations or a reflection of the naturally variable chemistry of marine sedimentary rocks. The source of the high chloride levels has not, however, been adequately determined at the present time, and evaluation of this issue by the Regional Water Board is ongoing.

² The State Water Board's land disposal regulations, contained in Chapter 15, Division 3 of Title 23 of the California Code of Regulations, classify waste management units as Class I, II, or III, depending on the unit's ability to contain wastes. See 23 C.C.R. Sections 2530-2533. The least stringent requirements apply to Class III facilities, which receive only nonhazardous and inert wastes.

In 1988 BFI submitted a report of waste discharge for expansion of the landfill into an area of approximately 542 acres of land located northwest and upgradient of the existing landfill. The proposed Class III landfill would be lined and would lie wholly within county boundaries. BFI proposed to use 215 acres of the 542-acre parcel for the disposal of nonhazardous and inert wastes. On February 19, 1991, the Los Angeles County Board of Supervisors certified the final EIR for the expansion project.³ On July 22, 1991, after a public hearing, the Regional Water Board adopted waste discharge requirements for the county landfill.

On March 22, 1991, petitioners filed a petition for a writ of mandamus with the Los Angeles County Superior Court, challenging the Sunshine Canyon EIR. On October 26, 1991, the court issued a preliminary injunction which prohibited BFI from proceeding with the expansion project pending resolution of the lawsuit. On March 20, 1992, the court issued a statement of decision, holding that the EIR failed to comply with the California Environmental Quality Control Act, Public Resources Code Section 21000 et seq. (CEQA), in several respects.⁴ The

³ *The County approved only the expansion project; however, the project description in the EIR indicates that BFI contemplates an eventual landfill on the land in both the County's and the City's jurisdiction.*

⁴ *The court held that the EIR failed to (a) properly respond to a councilman's comments regarding BFI's asserted record of noncompliance with city zoning variance conditions, (b) incorporate in the topical responses and cross-reference in the EIR certain expert comments regarding Elsmere Canyon, (c) have the Significant Ecological Area Technical Advisory Committee review the EIR in either draft or final form, (d) adequately explain the cumulative air emission analysis, (e) adequately analyze the project's alleged inconsistency with the City's general plan, and (f) adequately discuss the impacts of denying use of the landfill to city trash haulers.*

decision was followed by a final judgment and peremptory writ of mandate on April 22, 1992, which ordered the County to vacate their certification and adoption of the EIR and to refrain from approving the expansion project until the County took action necessary to comply with the judgment. An "Addendum to Final Environmental Impact Report for the Los Angeles County Board of Supervisors", dated May 1992, was subsequently prepared in order to bring the EIR into compliance with the court order. On July 28, 1992, the Los Angeles County Board of Supervisors recertified the EIR and approved the project for a second time. The court has yet to act on this latest action by the board of supervisors.

III. CONTENTIONS AND FINDINGS

1. Contention: Petitioners contend that they were denied a fair and impartial hearing before the Regional Water Board for two reasons. Petitioners argue that the Regional Water Board's refusal to grant their request for a continuance prevented the Regional Water Board from evaluating necessary facts. Secondly, they maintain that the Regional Water Board "used a biased and erroneous premise to justify the exclusion of essential evidence".

Finding:

A. Continuance

Petitioner, North Valley Coalition, requested a two-week continuance of the Regional Water Board's July 22 hearing. To support the request, petitioner cited their inability to obtain copies of documents in the Regional Water Board's files,

the need to have a consulting hydrogeologist review oversized maps in the board's files, and extensive public support for a continuance.

A review of the record indicates that in March 1991, the Regional Water Board published a public notice of the proposed adoption of waste discharge requirements for the Sunshine Canyon expansion project at the Board's April 22, 1991, meeting. Interested parties were later informed, by letter dated April 1, 1991, that the matter would be delayed at least until the Regional Water Board's June 3, 1991 meeting. On May 31, 1991, representatives of the North Valley Coalition first visited the Regional Water Board's offices to review the files.

Petitioner subsequently requested copies of documents in the files. Petitioner was informed that, due to the limited reproduction capabilities of the Regional Water Board and the large number of file review requests received by the agency, copies could not be provided. However, petitioner could either bring their own copier to the Regional Water Board offices or arrange for a copier service to provide the necessary equipment. Due to cost considerations, petitioner chose not to hire a copying service, but instead contacted their local elected officials. Ultimately, on July 17, 1991, representatives of Councilman Hal Bernson's office were permitted to use the Regional Water Board's equipment for a period of approximately three and one-half hours to copy over 700 pages of the Board's files. About 15 to 20 oversized maps could not be reproduced,

however, because the Regional Water Board lacked the necessary reproduction capability.

In general, it is an established proposition that there is no absolute right to a continuance absent an abuse of discretion. E.g., Savoy Club v. Board of Supervisors, 12 C.A.3d 1034, 91 Cal.Rptr. 198 (1970); cf. Gov. Code Sec. 11524. Under the circumstances presented here, the Board cannot conclude that the Regional Water Board's denial of a continuance was an abuse of discretion. The chronology of events detailed above makes clear that petitioner had notice for several months of the impending adoption of waste discharge requirements for the Sunshine Canyon facility. Petitioner also had ample access to the Regional Water Board's files.

Under the California Public Records Act, Government Code Section 6250 et seq., petitioner, in addition, had a right to obtain copies of documents in the files. See Gov. Code Sec. 6256. This right is not unconditional, however, but rather, is subject to an implied rule of reasonableness. Rosenthal v. Hansen, 34 Cal. App. 754, 110 Cal.Rptr. 257 (1973); see id. In particular, public agencies can impose reasonable restrictions on general requests for voluminous documents. Rosenthal v. Hansen, supra. The Regional Water Board's policy regarding obtaining copies of documents in its files was an eminently reasonable restriction on petitioner's right to obtain copies.

Finally, petitioners contend that two weeks was the minimum amount of time required by their consulting hydrogeologist to review the oversized maps in the Regional Water

Board's files. The maps were available for review for months, however, and petitioners fail to explain why their consultant was unable to review the maps at the Regional Water Board's offices.

B. Exclusion of Evidence

Petitioners contend that the Regional Water Board improperly disregarded evidence in its own files, the EIR, and hearing testimony regarding the connection between the proposed and the existing landfills. Petitioners cite a statement by the Regional Water Board executive officer that the landfill expansion "will be in an area of Sunshine Canyon both geographically, and, with the proposed construction design, hydrogeologically separated from the existing landfill...." In addition, petitioners note that the Regional Water Board members were provided with a document from BFI which incorrectly stated that the Watermaster for the Upper Los Angeles Basin Area had concluded that there was no groundwater connection between Sunshine Canyon and the San Fernando Basin. Petitioners assert that the underlying premise of a geographic and hydrogeologic separation between the proposed and existing landfills is patently erroneous.

The existing landfill and the proposed expansion are situated in separate but adjacent canyons in Sunshine Canyon. They are, thus, physically separate. The closest approach between the two areas is about 1,200 feet.

Petitioners are correct in their assertion, however, that the two landfills are hydrogeologically connected. The landfill expansion is upgradient from the existing landfill, and

both are situated in Sunshine Canyon which is hydrogeologically connected with the San Fernando Basin. Permeable alluvium fills the canyon bottoms and forms interconnecting sand and gravel channels through which ground water flows from Sunshine Canyon toward the San Fernando Basin. Although the primary hydrogeologic connection between Sunshine Canyon and the San Fernando Basin is through the alluvium, ground water also occurs within the fractured bedrock. Ground water flows in bedrock do not appear to constitute a significant source of recharge for the San Fernando Basin, however. Rather, it appears that flow within the bedrock discharges locally to springs or seeps and to the alluvial aquifers in the canyons. The record indicates that ground water from Sunshine Canyon contributes only 0.002 percent of the total safe yield, or average annual recharge, for the San Fernando Basin.

The Upper Los Angeles River Area Watermaster also concurs that there is a hydrologic connection between the Sunshine Canyon area and the ground waters of the San Fernando Basin. However, in his opinion, this connection occurs only through the thin alluvium.

The Regional Water Board staff's characterization of the landfill expansion as hydrogeologically separate from the existing landfill was, therefore, technically inaccurate. In their response to these petitions, Regional Water Board staff concede that there is a hydrogeologic connection between both the existing landfill and the expansion and between Sunshine Canyon and the San Fernando Basin. They maintain, however, that several

engineered construction features of the new landfill will effectively isolate it from the existing landfill and will mitigate the connection between Sunshine Canyon and the San Fernando Basin.

We concur that these construction features will provide mitigation for the hydrogeologic connection between the landfill expansion, the existing site and the San Fernando Basin. The landfill expansion will, nevertheless, remain hydrogeologically connected to the existing landfill and the basin.

Although the Regional Water Board staff's characterization was technically inaccurate, we conclude that it did not compromise the fairness and impartiality of the July 22 hearing. A review of the hearing transcript indicates that participants were not precluded from introducing testimony regarding either the existing landfill or potential impacts on the water quality of the San Fernando Basin. Further, viewing the record as a whole, it is clear that there was no substantial confusion on the part of the Regional Water Board regarding the existence of a hydrogeologic connection. The existence of a connection is reflected in the findings of Order No. 91-091, and it necessarily provided the rationale for the engineered containment features at the expansion site. See Findings 8 and 9 of Order 91-091.

To illustrate, because the primary hydrogeologic connection between Sunshine Canyon and the San Fernando Basin is through the alluvium, BFI will remove all natural alluvium from the canyon bottoms at the expansion site prior to construction of the liner system. Gravel underdrains will be installed to

intercept any ground water which may seep from the fractured bedrock.

A composite liner, consisting of two feet of clay compacted to a permeability of 1×10^{-6} centimeters per second (cm/sec) overlain with a 60-mil synthetic liner of high density polyethylene (HDPE), will be installed above the underdrains in the canyon bottoms.⁵ Side slopes will be protected with two feet of clay or its equivalent, with a permeability of 1×10^{-6} cm/sec. A leachate collection and removal system (LCRS) will be placed over the composite liner. The LCRS will consist of a blanket gravel drain on the bottom and a synthetic drainage layer on the side slopes.

In addition, a triple-row grout curtain and cut-off wall will be constructed at the toe of the expansion area. Finally, monitoring wells upgradient of the existing landfill and downgradient of the proposed landfill will allow detection of any releases from the composite liner system at the expansion site. The monitoring system at the new site is located in areas which cannot be affected by any potential leakage from the existing, closed facility.

⁵ This design is consistent with standards adopted by the federal Environmental Protection Agency (EPA), pursuant to Subtitle D of the Resource Conservation and Recovery Act, 42 U.S.C. Section 6901, et seq. (RCRA). See 56 Fed.Reg. 550978 (October 9, 1991). These regulations, which take effect on October 9, 1993, require a composite liner, consisting of two feet of compacted clay with a permeability of not less than 1×10^{-7} cm/sec and a flexible membrane liner over the clay layer. This is in contrast to the Board's land disposal regulations, which currently require one foot of clay with a permeability of 1×10^{-6} cm/sec. See 23 C.C.R. Secs. 2533(b)(2), 2542(b).

In sum, the Regional Water Board has required a number of engineered construction features at the landfill expansion which will, in combination, mitigate the hydrogeologic connection between the expansion area, the existing site, and the San Fernando Basin.

The Regional Water Board staff's technically inaccurate characterization of the expansion site does not appear to have had any impact on the ultimate decision adopted by that Board. Any error must, therefore, be viewed as harmless.

2. Contention: Petitioners raise the possibility of contamination of the Balboa Inlet Tunnel by leakage from the existing landfill and expansion site.

Finding: The Metropolitan Water District of Southern California owns the Balboa Inlet Tunnel, which conveys untreated municipal water to the Jensen Filtration Plant. The 14-foot tunnel comes within about 500 feet of the eastern boundary of the existing landfill situated at the mouth of Sunshine Canyon. The top of the tunnel, at its shallowest point, lies approximately 25 feet below the surface. Depth to ground water at the same location is on the order of 10 feet or less. Dependant upon flow rates, the hydraulic pressure head in the tunnel is approximately 3 to 19 feet lower than the ground water level. Under these conditions ground water may seep into the tunnel.

Nevertheless, we conclude that the expansion site will not pose a threat to the tunnel provided that the composite liner system, the LCRS, the cutoff trench, and the monitoring system are effectively designed and operated to prevent the escape of

leachate from the site. Should the monitoring system detect any potential leakage from the landfill, remedial action would be required to protect the tunnel from leachate contamination.

3. Contention: Petitioners assert that the landfill expansion will be located on an active earthquake fault.

Finding: This Board's regulations on waste disposal to land, contained in Chapter 15, Division 3 of Title 23 of the California Code of Regulations, prohibit locating a new Class III landfill on a known Holocene fault. 23 C.C.R. Sec. 2533(d). A "Holocene fault" is a fault which is or has been active during the last 11,000 years. Id. Sec. 2601. A Class III landfill can be located, however, within areas of potential rapid geologic change, if containment structures are designed, constructed, and maintained to preclude failure. Id. Sec. 2533(e).

The proposed landfill expansion lies within the Santa Susana fault zone. This zone is characterized by numerous individual faults which may have been inactive for as many as one million years or more. During the 1971 San Fernando earthquake, several isolated areas within the fault zone east and south of Sunshine Canyon experienced surface ruptures. These isolated ground ruptures have been attributed to the shaking effects of the San Fernando earthquake, rather than independent, active movement within the Santa Susana Fault. The 1971 trembler was triggered by movement along the active San Gabriel fault, not the Santa Susana.

In 1972 the Alquist-Priolo Special Studies Zones Act was enacted. See Public Resources Code Section 2621, et seq.

The act requires the California Division of Mines and Geology (Division) to delineate special study zones encompassing all potentially and recently active faults, which are deemed "sufficiently active" and "well-defined". Id. Sec. 2622.

In 1977 the Division designated special study zones encompassing the 1971 ruptures. None of these zones extended within the boundaries of the proposed landfill expansion. Fault activity studies conducted both by the Division and other investigators have reported no substantial evidence of fault movement during the last 11,000 years within the boundaries of the proposed landfill.

Petitioners raise a concern regarding potential damage to containment structures as a result of earthquake activity. The record indicates that, in addition to ground surface ruptures, the 1971 San Fernando earthquake also triggered landslides. This type of activity could threaten the integrity of the containment features proposed for the county landfill. The Regional Water Board, however, did take this possibility into account. Slope stability analyses in the record indicate that the proposed landfill is designed to preclude failure due to landslides, including those generated by a maximum probable earthquake.

4. Contention: Petitioner North Valley Coalition contends that the Regional Water Board erred in allowing the disposal of dewatered sewage or water treatment sludge at the county site.

Finding: Order No. 91-091 lists dewatered sewage or water treatment sludge as an acceptable waste at the landfill expansion, provided that the conditions specified in our land disposal regulations are met. P. 4, A.3; see 23 C.C.R. Sec. 2523(c). BFI testified at the Regional Water Board's July 22 hearing, and the EIR reflects, that sewage sludge will not, in fact, be accepted at the county landfill.

Order No. 91-091 merely indicates that the county site meets the applicable criteria for acceptance of sewage sludge. Order No. 91-091 does not mandate that the new landfill receive such wastes, however. Because the site does meet the applicable regulatory requirements, no water quality issues are raised by virtue of allowing the discharge of sludge at the site.

5. Contention: Petitioner North Valley Coalition argues that the Regional Water Board disregarded testimony that an extraction trench, located downgradient of the existing landfill, is located in a flood plain.

Finding: The extraction trench is part of the ground water monitoring system for the existing site. According to the Regional Water Board, the extraction trench will also serve as a fail-safe measure to intercept drainage from the expansion area.

Our land disposal regulations require that new Class III landfills be designed to prevent inundation or washout due to floods with a 100-year return period. This provision applies only to landfills. It is inapplicable to appurtenant structures upon which waste containment is not dependent. Therefore, assuming that petitioner's allegation is true, it

would not invalidate the Regional Water Board's action. In addition, there is no evidence in the record to indicate that location of the trench in a flood plain would adversely affect its operation.

6. Contention: Petitioners also raise concerns about the water quality protection standards in Order No. 91-091 for total dissolved solids (TDS), sulfate, chloride, and boron.⁶ These standards are substantially higher than those included in the waste discharge requirements, Order No. 87-158, for the existing, closed landfill.⁷

Finding: Under this Board's land disposal regulations, water quality protection standards consist of monitoring constituents, concentration limits for those constituents, the point of compliance and all monitoring points. 23 C.C.R. Sec. 2550.2. Concentration limits are set at background. See id. Sec. 2550.4.

In Order No. 87-158 the Regional Water Board established the concentration limits for TDS, sulfate, chloride, and boron at the water quality objectives specified in the water quality control plan (basin plan) for the affected basin because the board lacked site-specific data. Subsequent to adoption of Order No. 87-158, the Regional Water Board obtained background

⁶ Order No. 91-091, C.I. This section established the following concentration limits, in milligrams per liter (mg/l), for the alluvium: TDS-5000; sulfate-3500; chloride-70; and boron-0.6. Concentration limits in mg/l for bedrock are: TDS-5500; sulfate-3500; chloride-30; and boron-2.0.

⁷ Order No. 87-158 contained the following concentration limits (in mg/l): TDS-1500; sulfate-450; chloride-100; and boron-0.5.

data on the existing site and used it as the basis for the concentration limits included in Order No. 91-091 for the expansion site. The Regional Water Board has indicated that it intends to modify the concentration limits in Order No. 87-158 based upon the newer information.

Calcium sulfate, or gypsum, is a common component of the Towsley Formation. It contributes to the typically high sulfate and TDS concentrations found in local ground water within the sedimentary rocks and the canyon alluvium. We have reviewed the evidence in the record and concur with the Regional Water Board that the new concentration limits included in Order No. 91-091 simply reflect the natural ground water chemistry of Sunshine Canyon.

7. Contention: Petitioners contend that the Regional Water Board failed to adequately consider potential threats to ground water quality posed by the expansion project.

Finding: We do not agree. The Regional Water Board's action was consistent with this Board's land disposal regulations and is protective of water quality.

The Board's land disposal regulations require that new Class III landfills be sited where soil characteristics, distance from waste to ground water, and other factors will ensure no impairment of beneficial uses of surface or ground water beneath or adjacent to the facility. Id. Sec. 2533(b)(1). Where site characteristics alone will not ensure protection of water quality, additional containment measures are required. Id. (b)(2).

In this case the Regional Water Board determined that site characteristics were not sufficient and, therefore, required additional containment measures. After considering the site geology, the minor contribution of ground water from Sunshine Canyon to the San Fernando Basin, and the nature of the wastes, we conclude that the engineered containment features required in Order No. 91-091, together with the monitoring program, will provide reasonable assurance of water quality protection. Should leakage occur, it can be detected and mitigated before it would threaten to impair downgradient water supplies.

8. Contention: Petitioners argue that new information, which was not known and could not have been known to the public when the County certified the EIR as complete, requires that the Board prepare a subsequent EIR.

Finding: Petitioners state that the EIR was based upon the premise of an impending "landfill crisis" due to a shortfall in daily capacity which was expected to begin in September 1991, when the city landfill ceased operations. They contend that a letter, dated March 28, 1991, from Thomas A. Tidemanson, Chairman of a Los Angeles County Solid Waste Management Committee/Integrated Waste Management Task Force to the California Integrated Waste Management Board, now reveals that this premise is faulty. The letter indicates that the County will experience daily disposal capacity shortfalls within five years, rather than in September 1991. In addition, petitioners contend that the EIR was inadequate because it failed to evaluate a reasonable range of alternative projects, as required by CEQA.

We conclude that both the Regional Water Board and this Board are statutorily prohibited from preparing a subsequent EIR at this stage of the proceedings. Section 21167.3 of the Public Resources Code is controlling, and it requires that both agencies assume that the EIR is valid. See City of Redding v. Shasta County LAFCO, 209 Cal. App. 3d 1169, 257 Cal.Rptr. 793 (1989).⁸

Section 21167.3 provides that if a legal action is filed challenging the validity of an EIR or negative declaration, and if an injunction or stay is issued, responsible agencies "shall assume that the environmental impact report or the negative declaration for the project does comply with" CEQA and shall issue a conditional approval or disapproval of the project. If no injunction or stay is sought and granted, responsible agencies must assume that the environmental documents are valid and approve or disapprove the project. In the latter case the project proponent proceeds at his or her risk, pending final determination of the lawsuit.

The Regional Water Board, as a permitting agency, was a responsible agency. The State Water Board, in its administrative review capacity, is also a responsible agency. Therefore, under Section 21167.3 both boards are required to assume that the EIR prepared by the County is valid, pending a final determination of this issue by the Los Angeles County Superior Court.

⁸ In the event that the EIR for the project is finally determined to be invalid in the currently pending litigation, the Regional Water Board should promptly rescind Order No. 91-091.

The intent of Section 21167.3, as expressed by the court in City of Redding, supra, is:

"to expedite CEQA review where a lawsuit contesting CEQA documentation is pending by designating one forum for resolution of claims of unlawful documentation and by requiring project review to proceed while the claims are resolved. That forum is the court." 209 Cal.App. at 1181.

That purpose has particular relevance in this case because petitioners have, in fact, challenged the EIR before this Board on the same grounds raised in the lawsuit which they filed against the County. North Valley Coalition of Concerned Citizens v. County of Los Angeles, Case BS 006 501 C/W BC 024 160, Statement of Decision, Secs. 47-56. We note that the court rejected both challenges.⁹

IV. CONCLUSIONS

Based upon the above discussion, we conclude as follows:

1. The Regional Water Board's denial of a continuance did not deprive petitioners of a fair and impartial hearing before the Regional Water Board.

⁹ We find petitioners' contention that there is "new information" somewhat disingenuous. We concur with the Regional Water Board that information in the Tidemanson letter could reasonably be expected to have been available well before the EIR process was completed. In addition, we note that petitioners argued in the legal proceedings that the information in the Tidemanson letter was suppressed, concealed, selectively used, or otherwise ignored. This argument necessarily implies that the information was available when the EIR was adopted. Finally, we note that the trial court concluded that the information in the Tidemanson letter was consistent with the decisional basis of the EIR and did not require either invalidation of the EIR or a subsequent or supplemental EIR.

2. Petitioners were not denied a fair and impartial hearing as a result of Regional Water Board staff's characterization of the site.

3. The Regional Water Board did not exclude evidence essential to a decision in this matter.

4. Evidence in the record does not support petitioners' contention that the expansion site will threaten the Balboa Feeder Tunnel.

5. Evidence in the record does not support petitioners' contention that the expansion site is impermissibly sited on an active earthquake fault.

6. The Regional Water Board did not err in allowing the disposal of sludge at the expansion site.

7. Order No. 91-091 is not subject to challenge because the extraction trench is located in a flood plain.

8. The water quality protection standards included in Order No. 91-091 are appropriate.

9. The Regional Water Board adequately considered potential threats to ground water quality posed by the expansion site.

10. The Regional Water Board's adoption of Order No. 91-091 is consistent with this Board's land disposal regulations.

11. Both the Regional Water Board and this Board are statutorily precluded from preparing a subsequent EIR on the expansion site at this time.

V. ORDER

IT IS HEREBY ORDERED that the petitions of the City of Los Angeles and North Valley Coalition are hereby denied.

CERTIFICATION

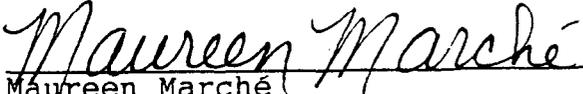
The undersigned, Administrative Assistant to the Board, does hereby certify that the foregoing is a full, true, and correct copy of an order duly and regularly adopted at a meeting of the State Water Resources Control Board held on September 17, 1992.

AYE: W. Don Maughan
Eliseo M. Samaniego
John Caffrey
Marc Del Piero
James M. Stubchaer

NO: None

ABSENT: None

ABSTAIN: None



Maureen Marché
Administrative Assistant to the Board